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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,636	11/01/1999	KEVIN MARK MCFARLAND	29193-PA	9011

7590 03/12/2002

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EXAMINER

FARAH, AHMED M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/431,636

Applicant(s)

Kevin Mark McFarland

Examiner

A. Farah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 19, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 recites the limitation "said canopy" in line 8. There is insufficient antecedent basis for this limitation in the claim.
3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "knock-down coupling means" is clearly defined neither in the specification nor in the claims. A clear description as to what this term is directed should be provided.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1, 20, and 24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown U. S. Pat. No. 5,383,916.

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Brown discloses a tanning bed system comprising a plurality of modules collectively defining components of said tanning bed and a knock-down coupling means for assembling said components into an operational tanning bed, as claimed. Further, Brown's system includes canopy 12 provided with illumination means for tanning, a pair of spaced bench supports 11, removable unit 13 disposed between said bench supports, and fan 56 for providing cool air into the system. Brown further teaches that the fan is oriented <sup>to</sup> draw air into the tanning bed and out to one or more vents in order to transfer heat away from the tanning bed. In addition, he teaches that unit 13, which houses a various electrical components is designed to be readily removed and sent to be serviced independent of the tanning bed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-7 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown U. S. Pat. No. 5,383,916. in view of Kramer et al. U. S. Pat. No. 4,600,009.

Brown has been described above. However, although he discloses a removable unit disposed between his bench supports, he does not teach that said unit is a ballast housing. Kramer et al. discloses an alternative UV tanning bed comprising an L-shaped bench supports and

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ballasts, 32, disposed between said bench supports. Thus, it would have been obvious to one having the ordinary skill in the art at the time of the applicant's invention to modify Brown with Kramer to provide removable ballasts disposed between the bench supports in order to provide an easy to maintain, user friendly system.

8. Claims 10-12, 18, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of the Montego Bay brochure (3200 Legend).

Brown, described above, does not show bench support being received on hook support or within a complementally formed slits. However, Montego Bay brochure discloses an alternative tanning bed in which the top portion of the bed is supported by a hook, which allows the top portion to ark as it opens. Thus, it would have been obvious to one skilled in the art to use hook as ans equivalent alternative bed support in order to provide a support to the top portion during while the bed is open.

***Allowable Subject Matter***

9. Claims 8 and 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

10. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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*Response to Arguments*

11. Applicant's arguments filed Dec. 19, 2001 have been fully considered but they are not persuasive.

The applicant argues that:

a) In contrary to his invention, which is designed to be easily disassembled for relocation or repair, Brown's tanning bed is not designed to be disassembled for servicing. Applicant further argues that Brown's bed does not disclose a removable unit but rather has a replaceable unit.

In response to this argument, claim 1 of the instant application does not include the limitation 'removable unit' as argued. Moreover, the difference between a 'removable unit' and 'replaceable unit' is not clear from claim language. Hence, it is understood that unit 13 of Brown is removable as well as replaceable.

b) Brown does not teach the use of knock-down coupling means. In response to this argument, Fig. 1 of Brown shows a tanning bed in which the top portion is adapted to swing-up to provide clearance for a user to occupy the bed; and to be pulled-down to inclose the user. Thus, it is inherent that Brown's tanning bed has a knock-down coupling means as claimed. The claim limitation '*knock-down coupling means*' is neither clear from the claim language nor from the specification. Clarification of this limitation would resolve the issue and may overcome the rejection.

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c) The knock-down coupling means of his invention “allows the canopy to be easily adjustable by the user and allow the canopy to swing up, or to be removed entirely.” This argument is based on an unclaimed limitation and therefore is not considered.

d) Brown does not teach ‘ballasts’ nor does Kramer ~~does~~ overcome the deficiencies of Brown. In regard to this argument, Brown discloses a removable electrical components box 13 (Col. 2, lines 51-54) and further teaches a different housing means, with a removable panel, for the electrical components (Col. 3, lines 7-13). As understood, ballast is defined as a device used to provide the starting voltage or to stabilize the current in a circuit. Thus, since Brown teaches a removable/replaceable electrical components unit, Kramer’s invention would have been a remedy for Brown’s deficiencies.

e) It would take about 2.5 hours to install Kramer’s tanning bed, whereas his takes “approximately 10 minutes to assemble and become operational.” This argument is based on a feature that is not included in the language of the instant <sup>claim</sup> application, and hence not considered.

### *Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

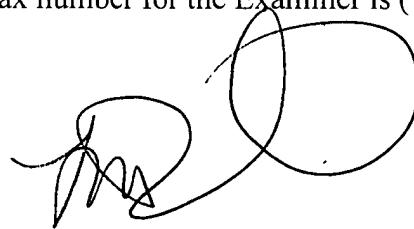
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to a. Farah whose telephone number is (703)305-5787.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Linda Dvorak, can be reached on (703) 308-0994. The fax number for the Examiner is (703) 746-3368.

A handwritten signature in black ink, appearing to be 'Linda C. M. Dvorak', with a large, stylized loop at the end.

**LINDA C. M. DVORAK  
SUPERVISORY PATENT EXAMINER  
GROUP 3700**

AF

03/11/02



**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

**Failure to take corrective action within the set period will result in ABANDONMENT of the application.**